

REMARKS

Claims 1-22 are pending in this Application. Claims 1, 10, 11 and 21 are independent claims. By this Amendment, claims 21-24 are added. No new matter is added.

Restriction Requirement

The Examiner has imposed a Restriction Requirement/Election of Species and requested that the Applicant elect one of the following two identified groups of claims for prosecution in the present application. The groups are as follows:

Group I, claims 1-10 and 12-18, drawn to a filter; or

Group II, claims 11, 19 and 20, drawn to a method of assembly of the filter.

In response to the Restriction Requirement, Applicant elects, with traverse, to prosecute Group I, including claims 1-10 and 12-18. Applicant specifically reserves the right to file a divisional application directed to non-elected claims 11, 19 and 20.

The Examiner further alleges that the present application contains claims directed to more than one species. Specifically, the Examiner alleges that separate species are shown in Figs. 4A, 5A, 6A, 7A, 8B, 9A, 9B, 9C and 12.

In response to the Election of Species Requirement, Applicant elects the species represented by Fig. 4A, readable on claims 1-9 and 12-18, as well as new claims 21, 22 and 24. Claims 1-3, 5-7, 13 and 21 are generic to at least the species represented by Figs. 4A, 5A, 6A, 7A, 8B, 9A, 9B and 9C.

In restricting the claims, the Examiner has required restriction between product and process claims. However, as the Examiner is aware, the present application is a national stage of a PCT application submitted under 35 U.S.C. §371 and therefore unity of invention rules apply. According to the rules of unity of invention, an international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to one of the following combinations of categories:

- 1- a product and a process specially adapted for the manufacture of the product; or
- 2- a product and process for use of the product; or
- 3- a product, a process specially adapted for the manufacture of the product and the use of the product; or
- 4- a process and an apparatus or means specially designed for carrying out the process; or
- 5- a product, a process specially adapted for the manufacture of the product, and an apparatus or means specifically designed for carrying out the process.

As the alleged groups of claims relate to at least one of the aforementioned categories, specifically defined as having unity of invention, the restriction of the claims is incorrect and should be withdrawn (see 37 C.F.R. §1.475(b)).

Moreover, the Examiner alleges there is no unity of invention because “the filter as claimed is anticipated by several references cited in the PCT search report.” However, none of the references cited in the PCT search report discloses or suggests

the concept of arranging the membrane holders on the inner wall of the housing, i.e., individually connecting the membrane holders to the inner wall.

For example in the "X" references cited in the PCT search report, US Patent 4,038,190 discloses only a single membrane holder of "core" defining two or four grooves for accommodating hollow fiber membranes. The membrane holder or core is not connected to the inner wall of the housing or casing.

JP 7-148421 discloses membrane holders, identified as unit filtration elements, sealed together with a beam. Thus, the membrane holders are first fixed together and only then arranged in a housing.

Similarly, in JP 7-124445 a monolithic structure is created by sealing the fan-shaped cartridges or membrane holders to each other and to the housing

In EU 0331067, the membrane holders 9 are held together by caps 12 at their ends. Thus, there is no connection between the membrane holders and the housing.

In JP 58-207904, there is only a single membrane holder defined by a cross-shaped central beam 14 and a net 11, which includes four chambers. The membrane holder is held only at its ends and is not connected to the inner wall of the housing.

As none of the references in the PCT search report anticipate the claimed filter, the Examiner's reliance on anticipation to justify the Restriction Requirement is improper and the Restriction should be withdrawn.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By 

John W. Fitzpatrick, Reg. No. 41,018
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

DJD/JWF/kas